

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

TRACI FISSEL,	:	
	:	
Plaintiff	:	
	:	NO. 3:CV-07-547
-vs-	:	
	:	(Judge Kosik)
	:	
CREDITORS INTERCHANGE AND	:	
JOHN DOE,	:	
	:	
Defendants	:	

**MEMORANDUM AND ORDER**

This matter is before us on the motion of plaintiff for relief from a void judgment, for a reconsideration of a court order not honoring an amended complaint, and seeking to strike an offer of judgment.

This action was commenced on March 20, 2007 with a complaint stating violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1629, et seq. The complaint was served on May 8, 2007 with an answer due by May 29, 2007.

On May 21, 2007, there was filed a Notice of Acceptance of an offer of judgment. The judgment was entered on May 24, 2007 and the case was terminated. Thereafter, on June 4, 2007, the parties filed a stipulation that the case should be reopened as the settlement resulting from acceptance of the offer of judgment requires approval of the bankruptcy court because plaintiff was a debtor in a bankruptcy case. The parties sought to reopen the case

to permit further settlement discussions or a trial. The stipulation provided for an open-ended reopening of the case until the bankruptcy court acted.

On June 7, 2007, the court ordered a reopening of the case, but then ordered an administrative closing to be reopened at the instance of either party at the conclusion of the bankruptcy proceeding. On September 10, 2007, counsel for plaintiff exercised plaintiff's option to reopen the case. Plaintiff then filed an amended complaint on September 12, 2007 restating the statutory claim and adding a tort claim against the defendants for invasion of privacy arising out of the same transactions as the statutory claim. The justification for filing the amended complaint is that it is done as a matter of course pursuant to Fed.R.Civ.P. 15(a) since there was no responsive pleading to the complaint by the defendants.<sup>1</sup>

On September 13, 2007, the court refused to honor the amended complaint without prejudice to commence a separate action on the tort claim. This resulted in the present motion before us. The motion has been briefed. The thrust of the defendants' opposition is that the court no longer has jurisdiction because the case ended with the entry of judgment based on the acceptance of the offer of judgment, and there was no need to seek bankruptcy court approval.

The trouble with the position of defendants is that they stipulated to all of the events bringing us to this juncture.

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<sup>1</sup>The answer was due on May 29, 2007. No answer was filed before the case was terminated on May 24, 2007 due to settlement.

The motion will be **GRANTED**. The court erred in not allowing the amended complaint. Accordingly, the defendants are granted thirty (30) days from the date of this Memorandum and Order to file an answer or otherwise plead.

SO ORDERED.

**/s/Edwin M. Kosik**  
United States District Judge

Date: October 15, 2007